

## **EXHIBIT "C"**

### **SUMMARY OF MITIGATION MEASURES IS/MND FOR CAR MAX 3200 HARBOR BOULEVARD – PA-07-01/ZA-07-23**

#### **Air Quality**

- AQ-1 The project site shall be watered three times per day during demolition activities to reduce fugitive PM<sub>10</sub> (dust) emissions.

#### **Cultural Resources**

- CR-1 If during construction, archaeological resources are uncovered at the site, all work within 50 meters (165 feet) of the find shall cease until a qualified professional archaeologist can evaluate the find. The City of Costa Mesa Development Services Department and a qualified archaeologist (approved by the City of Costa Mesa) shall be immediately contacted by the project applicant, or designated representative thereof. When contacted, the representative of the City and the archaeologist shall immediately visit the site to determine the extent and significance of the resources and to record, map, and catalogue artifacts as required by standard archaeological practices.
- CR-2 If during construction, paleontological resources are uncovered at the site, all work within 50 meters (165 feet) of the find shall cease until a qualified professional paleontologist can evaluate the find. The City of Costa Mesa Development Services Department and a qualified paleontologist (approved by the City of Costa Mesa) shall be immediately contacted by the project applicant, or designated representative thereof. When contacted, the representative of the City and the paleontologist shall immediately visit the site to determine the extent and significance of the resources and to record, map, and catalogue artifacts as required by standard paleontological practices.
- CR-3 If human remains are unearthed during earthmoving activities, then earthmoving activities shall cease immediately, and no further disturbance shall occur until the City's coroner has made the necessary findings about the origin and disposition of the remains pursuant to CEQA regulations and the Public Resources Code Section 597.9.

#### **Geology and Soils**

- GS-1 Prior to the issuance of grading permits, Terracon or another qualified engineering geologist approved by the City of Costa Mesa shall review and approve all grading plans and earthwork operation plans in relation to the Earthwork Considerations set forth in the Geotechnical Engineering Report. The applicant shall provide verification to the City of Costa Mesa that the recommendations in the Geotechnical Engineering Report will be incorporated into the project design.

- GS-2 Terracon or another qualified engineering geologist approved by the City of Costa Mesa shall be given 48-hour advance notice in order to provide testing and observation during excavation, grading, foundation, and construction phases of the project.

**Hydrology and Water Quality**

- HW-1 Prior to the issuance of grading permits, the project applicant shall submit a Water Quality Management Plan in accordance with the regulations of the Santa Ana Regional Water Quality Board (SARWQCB) to the City of Costa Mesa and the SARWQCB for review and approval.

**Noise**

- N-1 Construction activities shall not occur outside of the hours of 7 a.m. through 7 p.m. Monday through Friday, and 8 a.m. through 6 p.m. on Saturdays. No construction shall occur on Sundays or federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
- N-2 Limit hours of operation of equipment which produce significant noise or levels noticeably above general construction noise to between the hours of 10 a.m. and 4 p.m.
- N-3 All construction equipment shall be muffled and shall be maintained in good working order to reduce equipment related noise generation.
- N-4 If heavy construction activities occur adjacent to noise sensitive land uses, then temporary noise barriers shall be installed to protect those land uses during the periods of loudest construction events.
- N-5 All construction activities shall comply with applicable state and local construction noise regulations.

**Transportation/Traffic**

- TT-1 *Harbor Boulevard/Gisler Avenue Intersection.* This project may result in queues that extend beyond the existing southbound left-turn storage. The City shall evaluate this impact over a period of five (5) years from the issuance of Certificate of Occupancy. If it was determined by the City of Costa Mesa at any time during the five (5) year period that the southbound queues at the Harbor Boulevard/Gisler Avenue intersection extend beyond the available storage, then the project applicant shall be responsible for all design and construction costs for extending the left-turn storage up to the intersection of the Harbor Boulevard and I-405 southbound offramp intersection.
- TT-2 *City Trip fee Mitigation.* Fulfill mitigation of off-site traffic impacts at the time of issuance of Certificate of Occupancy by submitting to the Planning Division the required traffic impact fee pursuant to the prevailing schedule of charges adopted by the City Council.

The traffic impact fee will be calculated based upon the submitted traffic study and will include a credit for existing uses. The current rate per trip end is \$181.00. Note: The traffic impact fee will be recalculated at the time of issuance of Certificate of Occupancy based upon any changes in the prevailing schedule of charges adopted by the City Council and in effect at that time.

- TT-3 All project driveways shall prohibit left turns eastbound onto Gisler Avenue.
- TT-4 The security gate at the first sales lot driveway shall be designed for employee and emergency fire access only.
- TT-5 Deleted.
- TT-6 The east driveway shall be aligned along College Avenue to become a four-legged intersection.
- TT-7 The east driveway shall prohibit vehicles exiting the site to travel eastbound along Gisler Avenue or southbound along College Avenue.
- TT-8 Deleted.

**Exhibit "C-1"**  
**CARMAX AUTO SUPERSTORE**  
**MITIGATION MONITORING PROGRAM**

<b>Mitigation Measure</b>	<b>Responsible Implementation Agency</b>	<b>Monitoring Phase</b> 1. Enforcement Agency 2. Monitoring Agency	<b>Monitor</b> (Signature Required)	<b>Date of Compliance</b>
AQ-1: The project site shall be watered three times per day during demolition activities to reduce fugitive PM <sub>10</sub> (dust) emissions.	Project Developer	1. Grading and Construction 2. Building Safety Division 3. Building Safety Division		
CR-1: If during construction, archaeological resources are uncovered at the site, all work within 50 meters (165 feet) of the find shall cease until a qualified professional archaeologist can evaluate the find. The City of Costa Mesa Development Services Department and a qualified archaeologist (approved by the City of Costa Mesa) shall be immediately contacted by the project applicant, or designated representative thereof. When contacted, the representative of the City and the archaeologist shall immediately visit the site to determine the extent and significance of the resources and to record, map, and catalogue artifacts as required by standard archaeological practices.	Project Developer/ Consulting Archaeologist	1. Grading and Construction 2. Planning Division 3. Planning Division		

**CARMAX AUTO SUPERSTORE  
MITIGATION MONITORING PROGRAM**

Mitigation Measure	Responsible Implementation Agency	1. Monitoring Phase 2. Enforcement Agency 3. Monitoring Agency	Monitor (Signature Required)	Date of Compliance
CR-2: If during construction, paleontological resources are uncovered at the site, all work within 50 meters (165 feet) of the find shall cease until a qualified professional paleontologist can evaluate the find. The City of Costa Mesa Development Services Department and a qualified paleontologist (approved by the City of Costa Mesa) shall be immediately contacted by the project applicant, or designated representative thereof. When contacted, the representative of the City and the paleontologist shall immediately visit the site to determine the extent and significance of the resources and to record, map, and catalogue artifacts as required by standard paleontological practices.	Project Developer/ Consulting Paleontologist	1. Grading and Construction 2. Planning Division 3. Planning Division		
CR-3: If human remains are unearthed during earthmoving activities, then earthmoving activities shall cease immediately, and no further disturbance shall occur until the City's coroner has made the necessary findings about the origin and disposition of the remains pursuant to CEQA regulations and the Public Resources Code Section 597.9.	Project Developer/ Coroner	1. Grading and Construction 2. Planning Division 3. Planning Division		

**CARMAX AUTO SUPERSTORE  
MITIGATION MONITORING PROGRAM**

<b>Mitigation Measure</b>	<b>Responsible Implementation Agency</b>	<b>Monitoring Phase</b> 1. Enforcement Agency 2. Monitoring Agency	<b>Monitor</b> (Signature Required)	<b>Date of Compliance</b>
GS-1: Prior to the issuance of grading permits, Terracon or another qualified engineering geologist approved by the City of Costa Mesa shall review and approve all grading plans and earthwork operation plans in relation to the Earthwork Considerations set forth in the Geotechnical Engineering Report. The applicant shall provide verification to the City of Costa Mesa that the recommendations in the Geotechnical Engineering Report will be incorporated into the project design.	Project Developer	1. Preconstruction (prior to issuance of grading or construction permits) 2. Building Safety Division 3. Building Safety Division		
GS-2: Terracon or another qualified engineering geologist approved by the City of Costa Mesa shall be given 48-hour advance notice in order to provide testing and observation during excavation, grading, foundation, and construction phases of the project.	Project Developer	1. Grading and Construction 2. Building Safety Division 3. Building Safety Division		

**CARMAX AUTO SUPERSTORE  
MITIGATION MONITORING PROGRAM**

<b>Mitigation Measure</b>	<b>Responsible Implementation Agency</b>	<b>Monitoring Phase</b> 1. Enforcement Agency 2. Monitoring Agency	<b>Monitor</b> (Signature Required)	<b>Date of Compliance</b>
HW-1: Prior to the issuance of grading permits, the project applicant shall submit a Water Quality Management Plan in accordance with the regulations of the Santa Ana Regional Water Quality Board (SARWQCB) to the City of Costa Mesa and the SARWQCB for review and approval.	Project Developer	1. Preconstruction (prior to issuance of grading or construction permits) 2. Building Safety Division 3. Building Safety Division		
N-1: Construction activities shall not occur outside of the hours of 7 a.m. through 7 p.m. Monday through Friday, and 8 a.m. through 6 p.m. on Saturdays. No construction shall occur on Sundays or federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.	Project Developer	1. Grading and Construction 2. Building Safety Division 3. Building Safety Division		
N-2: Limit hours of operation of equipment which produce significant noise or levels noticeably above general construction noise to between the hours of 10 a.m. and 4 p.m.	Project Developer	1. Grading and Construction 2. Building Safety Division 3. Building Safety Division		

**CARMAX AUTO SUPERSTORE  
MITIGATION MONITORING PROGRAM**

<b>Mitigation Measure</b>	<b>Responsible Implementation Agency</b>	<b>1. Monitoring Phase 2. Enforcement Agency 3. Monitoring Agency</b>	<b>Monitor (Signature Required)</b>	<b>Date of Compliance</b>
N-3: All construction equipment shall be muffled and shall be maintained in good working order to reduce equipment related noise generation.	Project Developer	1. Grading and Construction 2. Building Safety Division 3. Building Safety Division		
N-4: If heavy construction activities occur adjacent to noise sensitive land uses, then temporary noise barriers shall be installed to protect those land uses during the periods of loudest construction events.	Project Developer	1. Grading and Construction 2. Building Safety Division 3. Building Safety Division		
N-5: All construction activities shall comply with applicable state and local construction noise regulations.	Project Developer	1. Grading and Construction 2. Building Safety Division 3. Building Safety Division		



**CARMAX AUTO SUPERSTORE  
MITIGATION MONITORING PROGRAM**

Mitigation Measure	Responsible Implementation Agency	1. Monitoring Phase 2. Enforcement Agency 3. Monitoring Agency	Monitor (Signature Required)	Date of Compliance
<p>TT-1: Harbor Boulevard/Gisler Avenue Intersection. This project may result in queues that extend beyond the existing southbound left-turn storage. The City shall evaluate this impact over a period of five (5) years from the issuance of Certificate of Occupancy. If it was determined by the City of Costa Mesa at any time during the five (5) year period that the southbound queues at the Harbor Boulevard/Gisler Avenue intersection extend beyond the available storage, then the project applicant shall be responsible for all design and construction costs for extending the left-turn storage up to the intersection of the Harbor Boulevard and I-405 southbound offramp intersection.</p>	<p>Project Developer/ Transportation Services Division</p>	<p>1. Five (5) years from the issuance of Certificate of Occupancy 2. Transportation Services Division 3. Transportation Services Division</p>		

**CARMAX AUTO SUPERSTORE  
MITIGATION MONITORING PROGRAM**

<b>Mitigation Measure</b>	<b>Responsible Implementation Agency</b>	<b>1. Monitoring Phase 2. Enforcement Agency 3. Monitoring Agency</b>	<b>Monitor (Signature Required)</b>	<b>Date of Compliance</b>
<p>TT-2: <i>City Trip fee Mitigation.</i> Fulfill mitigation of off-site traffic impacts at the time of issuance of Certificate of Occupancy by submitting to the Planning Division the required traffic impact fee pursuant to the prevailing schedule of charges adopted by the City Council. The traffic impact fee will be calculated based upon the submitted traffic study and will include a credit for existing uses. The current rate per trip end is \$181.00. Note: The traffic impact fee will be recalculated at the time of issuance of Certificate of Occupancy based upon any changes in the prevailing schedule of charges adopted by the City Council and in effect at that time.</p>	Project Developer	<p>1. Prior to the issuance of Certificate of Occupancy 2. Transportation Services Division 3. Transportation Services Division</p>		
<p>TT-3: All project driveways shall prohibit left turns eastbound onto Gisler Avenue.</p>	Project Developer	<p>1. Preconstruction (prior to issuance of grading or construction permits) 2. Transportation Services Division 3. Transportation Services Division</p>		

**CARMAX AUTO SUPERSTORE  
MITIGATION MONITORING PROGRAM**

<b>Mitigation Measure</b>	<b>Responsible Implementation Agency</b>	<b>1. Monitoring Phase 2. Enforcement Agency 3. Monitoring Agency</b>	<b>Monitor (Signature Required)</b>	<b>Date of Compliance</b>
TT-4: The security gate at the first sales lot driveway shall be designed for employee and emergency fire access only.	Project Developer	1. Preconstruction (prior to issuance of grading or construction permits) 2. Transportation Services Division 3. Transportation Services Division		
TT-5: Deleted.	•	•	•	•
TT-6: The east driveway shall be aligned along College Avenue to become a four-legged intersection.	Project Developer	1. Preconstruction (prior to issuance of grading or construction permits) 2. Transportation Services Division 3. Transportation Services Division		
TT-7: The east driveway shall prohibit vehicles exiting the site to travel eastbound along Gisler Avenue or southbound along College Avenue.	Project Developer	1. Preconstruction (prior to issuance of grading or construction permits) 2. Transportation Services Division 3. Transportation Services Division		
TT-8: Deleted.	•	•	•	•

64

**Draft City Council Resolution  
(Denial)**

**RESOLUTION NO. 07-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
COSTA MESA DENYING PLANNING APPLICATION PA-07-01  
AND ZONING APPLICATION ZA-07-23**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS  
FOLLOWS:

WHEREAS, an application was filed by Total Real Estate Development, authorized agent for C. J. Segerstrom and Sons, with respect to the real property located at 3200 Harbor Boulevard, requesting approval of a conditional use permit to construct an approximately 20,470 square foot automotive dealership (Carmax Auto Superstore) in conjunction with a variance from maximum building height (30 feet allowed; 41 feet proposed), an administrative adjustment for landscape setback along a portion of the Gisler Avenue frontage (15 feet required; 10 feet proposed), and a Planned Signing Program; and

WHEREAS, a duly noticed public hearing was conducted by the Planning Commission on June 11, 2007; and PA-07-01 and ZA-07-23 was approved; and

WHEREAS, on June 18, 2007, Planning Commission's approval of PA-07-01 and ZA-07-23 was appealed to City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on July 3, 2007.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council hereby **DENIES** PA-07-01 and ZA-07-23 with respect to the property described above.

**PASSED AND ADOPTED this 3rd day of July, 2007.**

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
Costa Mesa

\_\_\_\_\_  
Mayor of the City of Costa Mesa

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

## **EXHIBIT "A"**

### **FINDINGS (DENIAL)**

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
- A compatible and harmonious relationship does not exist between the proposed buildings, site development, and uses, and existing buildings, site development, and uses on surrounding properties.
  - The proposed project will not comply with the performance standards as prescribed in the Zoning Code.
  - The proposed use is not consistent with the General Plan.
  - The cumulative effect of all the planning applications have been considered.
- B. The information presented substantially does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) with regard to the conditional use permit in that the proposed development and use is not substantially compatible with developments in the same general area. Granting the conditional use permit will be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to properties or improvements within the immediate neighborhood.
- C. The information presented does not substantially comply with Costa Mesa Municipal Code Section 13-29(g)(1) to justify the variance for increased building height because special circumstances applicable to the property do not exist. Granting the variance would constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity under identical zoning classifications.
- D. The information presented does not substantially comply with Costa Mesa Municipal Code Section 13-29(g)(1) with regard to the administrative adjustment for reduced landscape setback because the strict application of the development standard does not deprive such property of privileges enjoyed by others in the vicinity under an identical zoning classification. Granting the administrative adjustment would constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity under identical zoning classifications.
- E. The planned signing program does not substantially comply with Costa Mesa Municipal Code Section 13-29(g)(8) because the proposed signage, as conditioned, is not consistent with the intent of the Sign Code and the General Plan. The signs allowed under the planned signing program are not consistent with similar signage within the area, taking into account sign style and shape, materials, letter style, colors, and illumination. The signs allowed under the planned signing program are not compatible with the buildings and developments they identify – taking into account materials, colors, and design motif. Approval would constitute a grant of special privilege or allow substantially greater visibility than what the standard sign provisions allow.
- F. An initial study was prepared, pursuant to the California Environmental Quality Act.

Although the proposed project could have a significant effect on the environment, according to the Initial Study and Mitigated Negative Declaration, which reflect the independent judgment of the City of Costa Mesa, there will not be a significant effect on the environment because mitigation measures have been added to the project.

- G. The evidence presented in the record as a whole indicates that the project will not individually or cumulatively have an adverse effect on wildlife resources or habitat.
- H. The project, as conditioned, is consistent with Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code in that the development project's traffic impacts will be mitigated by the payment of traffic impact fees.

## **Appeal Application and Attachments**





RECEIVED  
CITY CLERK City of Costa Mesa

2007 JUN 18 AM 8:02

☒ Appeal of Planning Commission Decision - \$1070.00  
☐ Appeal of Zoning Administrator/Staff Decision - \$670.00

CITY OF COSTA MESA

**APPLICATION FOR APPEAL, REHEARING, OR REVIEW**

Applicant Name\* Derrick Lake - President French Quarter H.O.A.

Address 1420 Deauville Pl. Costa Mesa Ca. 92626

Phone 749-6879 Representing French Quarter Town home Community

REQUEST FOR: ☐ REHEARING ☒ APPEAL ☐ REVIEW\*\*

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

PA-07-01, ZA-07-23 June 11, 2007 Planning Commission

Decision by: \_\_\_\_\_

Reasons for requesting appeal, rehearing, or review:

To reconsider and revise the specific details of the mitigation measures as approved by the planning commission at the June 11, 2007 Planning Commission as they relate to the noise, view and traffic impacts to the existing adjacent residential properties.

Numerous issues as they related to traffic, aesthetics, noise, property values were raised in writing prior to the June 11th Planning Commission and during the public comment

Most of these issues were not adequately addressed and some were actually ignored. All of the issues raised in writing and in the public hearing need to be specifically addressed and mitigation included as conditions of approval, as appropriate, including required mitigation measures identified in the Mitigated Negative Declaration. Of the few issues actually responded to, and mitigation agreed to by the applicant in the public hearing, no new conditions of approval were added to the Planning Commission Resolution and should have been.

Date: June 18, 2007

Signature: Derrick M. Lake President FQHOA

\*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.

\*\*Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

If appeal, rehearing, or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal, rehearing, or review:

Appeal of PA 07-01 and ZA 07-23

We request the City Council to further evaluate the following outstanding issues related to Application PA07-01 & ZA-07-23 as it is not compatible and harmonious with the uses that exist in the adjacent residential neighborhood and in the vicinity as a whole. If the following outstanding issues cannot be adequately addressed, the City Council should reverse the Planning Commission's June 11<sup>th</sup> approval and deny the project as proposed.

The applicant has not adequately addressed the impacts of the project as they pertain to the following CEQA items as indicated on the Environmental checklist as provided by Michael Brandman and Associates.

1.c)

The project has not addressed how it will mitigate the degradation of the view as seen from the adjacent residential community and meet the "no dark spots" as mentioned in the conditions. The existing view consists of a 34' wall of the Wickes building and street landscaping with sidewalk for access to Gisler Park. The proposed site design will expose all adjacent residents to the business frontage, driveway accesses and associated traffic. The project also proposes commercial signage on along the Gisler boundary of the project where it faces residential property.

On June 10<sup>th</sup>, the first day that most of the French Quarter residents became aware that any study sessions existed of which we were not invited, we suggested to Paul Freeman of Segerstrom to construct a wall (similar to the Target Greatland wall along College Ave.) along the Carmax property where it is adjacent to residential zoning. To date of we received no response. We also requested that the commercial signage be limited to the areas adjacent to commercial zoned properties only since Gisler does not offer any exposure to drive by customers marketing value like that of Harbor Blvd.

We would request that the city add a Condition to the project to require the construction of a wall within the Carmax property tall enough to mitigate the view along all residential adjacent property lines and prohibit commercial signage along property boundaries facing residential zones.

NOTE The IS/MND assumes that a 7-foot tall wall would be constructed on the French Quarter property along Gisler Avenue; however, the Gisler Wall as mentioned in the Conditions of Approval proposed to be built within the French Quarters property may only be 6 feet tall along Gisler Avenue and 3 feet or less within the required Site Visibility Triangle at the southwest corner of Gisler Avenue and College Avenue. As a result, the assumed wall cannot be built to adequately mitigate the noise and/or light generated by this project. It also does not address the wall that would be needed along the Motel 6 property to mitigate the light/noise from customer traffic entering and existing Carmax property. The mitigation measure does not specifically address the restriction of customer traffic controls to deter left turns onto Gisler from the driveways between College and Harbor, and southbound through-movements onto College Avenue.

2007 JUN 19 PM 3:14  
CITY OF COSTA MESA  
CITY CLERK

French Quarter property owners will be exposed to the lights of the Auto Dealership 24hrs, 365 days of the year. The Conditions would allow a spillover of light onto the French Quarter property, which is unacceptable, and only refers to light from fixtures and not how the glares from reflections of the cars will be mitigated.

1.d)

The project would bring a parking/used car lot frontage to the entire length southern property boundary adjacent to the French Quarter Town homes and the back yards of portion of the Halecrest single-family homes, creating a new source of light and glare which would have an adverse affects 24hrs a day.

The studies provide did not clearly define how the light reflecting from the cars within the lot would be mitigated to avoid the constant glare onto the neighboring properties.

We would request that the city add a Condition to the project to require the construction of a wall tall enough to mitigate the view along all residential adjacent property lines.

8.a)

The project has indicated that this condition will be mitigated during final permitting at which time a WQMP will be prepared, however it is unclear how they will be able to mitigate this to "less significant" and implement any Treatment Control BMPs that will be required into their current site design. The city may want to consider a requirement of the applicant to at least provide a brief description of how they will incorporate this type of BMP into their design during the final permit phase, thus avoiding a redesign due the footprint requirements, soil conditions and/or location of the Treatment Control BMP.

We would request that the city require the applicant to provide a Preliminary WQMP prior to approval for the project.

11.d)

The proposed project did not adequately address the following issues raised related to the noise discussion in the IS/MND:

The Study indicates the project will not result in any substantial permanent increase in noise levels based upon: 1) the increase in traffic noise levels due to activities at the project, 2) the noise generated from ten air conditioning condenser units, and 3) the car wash equipment.

"Would the project the result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?" It is noted on Page 16 of Appendix E ("Draft Noise Assessment for CarMax EIR) of the Study:

*"The vacant Wicks Furniture building currently situated on the project site provides mitigation from freeway noise to the homes on the south side of Gisler Avenue...When this building is removed the mitigating effects will be removed as well. The section of the 405 Freeway directly north of the west portion of the existing Wicks building does not include a freeway noise wall...It is estimated that the existing structure is providing as much as 5-6 dB of noise reduction to the homes located nearest the center of the existing structure."*

Since no new mitigation is proposed, the project will result in an increase in significant ambient noise levels in the project vicinity above levels existing without the project. It was noted by the City's consultant at the public hearing that even an increase of 1-3 dBA would be noticeable and require a person to raise their voice to communicate with someone a short distance away.

Second, Appendix E evaluates the noise generated by ten (10) rooftop air conditioning condenser units. It states the projected noise levels will range from 51 to 53 dBA Leq., which exceeds the Costa Mesa nighttime noise ordinance level of 50dBA within the French Quarter (located directly across Gisler Avenue to the south) and at the single-family residence at the southeast corner of College Avenue and Gisler Avenue (Appendix E, Figure 10). The Study indicates a seven (7) foot high wall will provide a minimum of 5db of noise reduction, which would be installed as a condition of approval; however, the only wall that may be required by the conditions of approval (Condition 11) along Gisler Avenue would be a six (6) foot high wall. In fact, Condition 11 does not require a wall it only states that the "installation of any 6-foot or higher solid opaque walls along Gisler shall be consistent with the City's Streetscape and Median Standards." This could result in a maximum three (3) foot high wall being installed at the southwest corner of College Avenue and Gisler Avenue due to site visibility requirements at street corners. In addition, the wall would only provide mitigation up to a height of six (6) feet above ground level yet all of the homes in the French Quarter and many of the homes along Gisler Avenue, within the Halecrest Community along Gisler Avenue, are *two-story* residences. The sound would travel directly across Gisler Avenue into the windows of the second floors with no mitigation.

The applicant indicated a parapet may be constructed to mitigate noise generated by the rooftop equipment; however, they did not indicate how high the parapet would be in relation to the equipment and it was not included as a condition of approval. In addition, City staff indicated the noise ordinance only applied to outdoor living spaces so the second stories were not an issue since they did not have balconies. If this is the case, it is still impossible for any wall on the French Quarter property at the Gisler Avenue right-of-way line to mitigate noise from the rooftop equipment to the backyards of the French Quarter units. A cross-section of Gisler Avenue with the proposed project and the French Quarter homes would demonstrate this fact.

Third, the car wash noise contours in Appendix E, Figure 11 are not obstructed along the east side of the proposed building towards the French Quarter. Again, the noise

generated by the car wash is also proposed to be mitigated by a seven (7) foot high "noise barriers", or walls, that will provide a minimum of 5 dB of noise reduction for the carwash. If the contours are not shown correctly and the proposed French Quarter wall will not be seven (7) feet high or mitigate the second stories of the residences along Gisler Avenue, the noise will likely exceed the noise standards.

Fourth, Condition of Approval 13 indicates the property could possibly be raised up an additional 30 inches above the finished grade of any abutting property, which would further decrease any mitigation resulting from existing or proposed walls along Gisler Avenue.

15.d)

Issues were raised in writing and at the public hearing regarding the IS/MND discussion on traffic, specifically related to truck and customer traffic on Gisler Avenue. Coincidentally, an exhibit prepared by the City to respond to the traffic along Gisler Avenue was presented solely to the Planning Commission and was not shared with the general public.

The project proposes driveways along Gisler Ave. and a "Cross" intersection at College that will be within the only pedestrian sidewalk path to Gisler Park. The driveway at College is proposed to be the truck access driveway that will cause direct headlights into the French Quarter property while the truck turns right onto Gisler while exiting the property. Hours of operations are not included in Resolution PC J7-46. It also brings customer traffic directly across from the north entry of the French Quarter Town Homes.

We would request the city to condition the project to limit the commercial/truck traffic to the driveways adjacent to commercial zones or adjust the hours for commercial/truck traffic to Monday thru Friday 8AM-5PM for any access along Gisler.

Proper signage and/or signals should be considered, as this is the only intersection to access the sidewalk to Gisler Park.

In addition to serving the purpose and intent of the CUP process which; is to insure that the use is compatible with developments in the same general area and will not be detrimental to health, safety and general welfare of the public or injurious to properties or improvements within the immediate neighborhood. We find that the site has several severe impacts to the adjacent residential properties that include the following.

It is evident that the Planning Commission considered the adjacent properties when the Wickes project was proposed. I hope the City Council can provide the same type of consideration.

1. Project will have a detrimental effect on the current residential property values as no one will want to buy a home next to a used car lot that will be lit 24hrs a day, 365 days of the year which offers no benefit to the enjoyment the surrounding neighborhood and what is now a fairly safe way to access Gisler Park.

2. Project provides the Harbor Blvd. type of activity directly adjacent to residential properties creating an exposure of those walking/biking to Gisler Park during all hours of the day everyday. The proposed project would construct a auto dealership along Harbor Boulevard without direct access to Harbor Boulevard where all other dealerships along Harbor Boulevard have direct access and major arterial roadway-adjacent parking
3. Exposes adjacent residents to commercial/trucks and customer traffic.
4. The applicant did not approach the French Quarter until one day before the Planning Commission.
5. Limited hours of operation were agreed upon by the applicant at the Public Hearing but need to be added as a condition of approval.
6. The French Quarter HOA has a swimming pool used by many of the residents. The project (demolition phase) will greatly increase contaminants that can prohibit its use.
7. The project has a large container used for fuel. No mitigation was included on delivery of fuel, the size of the truck or when it will be delivered.

As noted above, we request the City Council to further evaluate the following outstanding issues related to Application PA07-01 & ZA-07-23 as it is not compatible and harmonious with the uses that exist in the adjacent residential neighborhood and in the vicinity as a whole. If the following outstanding issues cannot be adequately addressed, the City Council should reverse the Planning Commission's June 11<sup>th</sup> approval and deny the project as proposed.

**Minutes of Planning  
Commission Meeting  
June 11, 2007**

4. Planning Application PA-07-01 and Zoning Application ZA-07-23, for Total Real Estate Development, authorized agent for C.J. Segerstrom and Sons, for a conditional use permit to construct an approximately 20,470 square foot automotive dealership (Carmax Auto Superstore) on the former Wickes Furniture Store site in conjunction with a variance from maximum building height (30 feet allowed; 41 feet proposed), an administrative adjustment to reduce landscape setback along a portion of Gisler Avenue (15 feet required; 10 feet proposed) and a Planned Signing Program, located at 3200 Harbor Boulevard in a C1 zone. Environmental determination: Mitigated Negative Declaration.

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff is recommending approval of the project subject to conditions of approval and mitigation measures and the modifications in the Supplemental Memo dated June 7. He noted some of the conditions and mitigation measures, including the illuminated sign facing Gisler Avenue being replaced by a smaller non-illuminated sign is recommended, as well as three driveway approaches allowing right-turns out only. Mr. Lee answered questions of the Commission relating to the signs and stated that staff will respond to questions concerning the negative declaration during public comments.

In reply to a question from Commissioner Clark about Condition of Approval No. 38 on medians, Transportation Services Manager Peter Naghavi noted that left turns would not change out of the motel. Mr. Naghavi provided drawings and stated that the residents' needs will be taken care of.

Paul Freeman, representing C.J. Segerstrom & Sons, spoke and gave a presentation noting that they have met with the French Quarter Homeowner Association to discuss noise and lighting concerns and believes this project is the best use of the property in a challenging location.

Mark Bell, representing Carmax, gave a presentation and noted that they are a Fortune 500 company. Mr. Bell agreed to the conditions of approval and the supplemental memo with additional conditions.

Mike Brumbaugh, President of Halecrest and Hall of Fame Homeowners Association, said he was pleased with the response of C.J. Segerstrom & Sons and Carmax, but still has safety concerns and further improvements are needed.

Darnell Wyrick, President of the Mesa Verde Community, Inc. Board of Directors, said he supports the project if all the conditions are met.

Derrick Lake, French Quarter Homeowners Association, stated many concerns including signage, the elimination of any trucks east of the project, and to highly restrict deliveries.



Chuck Ropp, Hall of Fame resident, agreed with the previous speaker and was concerned about noise, lighting, possibly putting in a cul-de-sac.

Gerry Grant, Costa Mesa, spoke about sound mitigation, landscaping, suggesting a berm, and said this item should be postponed.

Stephanie Callen, French Quarter resident, had several concerns including clarifying the mitigation measures, and the property values being affected.

Miriam Kerr, French Quarter resident, noted her concern about air pollution.

David Kinkade, Costa Mesa, mentioned that most concerns have been addressed, and a balance has been reached.

Julie Crawford, Costa Mesa, said she lives across from the proposed project and is concerned about property values, and the delivery trucks staying on Harbor Boulevard.

Michael Beringer, Costa Mesa, said he was opposed to the project and noted concerns about property values, noise, traffic, air pollution, speeding, and an above-ground gasoline tank.

Maureen Gass, Costa Mesa, expressed concerns regarding speeding, lighting, and noise issues.

Matt West, French Quarter homeowner, asked why he had not received a response from his letter dated today, June 11. He was concerned about noise, traffic, and environmental issues.

Robin Leffler, Costa Mesa, returned to the podium and spoke about property values.

Gerry Grant returned to the podium and reiterated that this item should be postponed.

Cindy Brennerman, Costa Mesa, mentioned her concerns for the safety of children.

Arlene Jones, Costa Mesa, stated her concerns for the neighbors backing up to this project.

The Chair called a brief recess at 9:21 p.m. and the meeting resumed at 9:32 p.m.

No one else wished to speak and the Chair closed the public comments.

Mr. Lee noted that Tom Holm of Michael Brandman Associates prepared the Negative Declaration and Mr. Holm provided responses to the issues raised in Mr. West's letter, including project noise, the carwash facility, and other noise issues. He noted that the noise impacts to the surrounding residents would be within the limits established by City Code.

Jose Viray, Noise Consultant for Michael Brandman Associates, discussed the subject of noise and the number of decibels reiterating that, based on their analysis, the noise impacts to the adjacent residents would be within the limits established by City Code.

Mr. Naghavi explained to the Chair that the median and driveway design for the project minimizes traffic impacts and truck deliveries.

Mr. Holm continued to speak on the location of service garage doors, idling trucks, fuel dispensing, and the Water Quality Management Plan.

Mr. Lee responded to questions from Commissioners Clark and Egan relating to the wall design for the French Quarter homes.

Mr. Naghavi and Mr. Robinson discussed noise levels with Vice Chair Fisler and Commissioner Righeimer.

City Engineer Ernesto Munoz noted that, subject to available funding, the Gisler Avenue street repair would be a priority.

The Chair and Mr. Munoz discussed drainage and the Chair and Mr. Bell discussed the number of car spaces and the carwash.

Mr. Lee explained to the Chair about the hours of construction and a 10-month construction period was noted. Mr. Naghavi suggested to Commissioner Clark that the delivery times be changed for the morning hours on Saturdays. Mr. Munoz noted to Commissioner Clark the estimated overlay costs for Gisler Avenue.

Commissioner Clark suggested that the applicant/Carmax pay for the street repair work on Gisler Avenue. Mr. Bell noted to Vice Chair Fisler that the demolition of the current building would last approximately 30 days. Mr. Bell made some closing comments.

Vice Chair Fisler said he was in favor of this project and made a motion.

MOTION: Adopt the Mitigated Negative Declaration and approve Planning Application PA-07-01 and Zoning Application ZA-07-23, by adoption of Planning Commission Resolution PC-07-46, based on the evidence in the record and findings contained in Exhibit "A", subject to the conditions in Exhibit "B" and Mitigation Measures in Exhibit "C", in addition to modifying Condition No. 19 of Exhibit "B" to restrict the delivery hours for vehicle delivery and off-loading to

9:00 a.m. to 5:00 p.m., Monday through Saturday, and an additional condition that the applicant discuss with staff the possibility of paying for the street repair work on Gisler Avenue. Moved by Vice Chair James Fisler, seconded by Commissioner Eleanor Egan.

As Commissioner Egan seconded the motion, she noted that the supplemental information memo dated June 7 should be added in the motion, and Vice Chair Fisler agreed. During discussion on the motion, Commissioner Clark asked that the construction hours be adjusted and Vice Chair Fisler replied that he would not change the hours. Commissioner Clark asked if the applicant could be responsible for paying street repair costs and Commissioner Righeimer replied that he was in favor of the motion, but not for the applicant paying the street repair costs. Commissioner Egan agreed with Commissioner Righeimer and Mr. Robinson noted that the applicant is required to repair the street to the condition it was prior to the start of the project. Mr. Munoz mentioned the costs for the levels of street improvements.

Mr. Freeman discussed with the Chair that it would be an unreasonable request to ask for payment to repair Gisler Avenue. The Chair and Vice Chair Fisler agreed to eliminate the condition regarding possibly paying for the street repair of Gisler Avenue from the motion wording and Commissioners Egan and Clark also agreed.

**MOTION: Adopt the Mitigated Negative Declaration and approve Planning Application PA-07-01 and Zoning Application ZA-07-23, by adoption of Planning Commission Resolution PC-07-46, based on the evidence in the record and findings contained in Exhibit "A", subject to the conditions in Exhibit "B" and Mitigation Measures in Exhibit "C", and subject to the modifications indicated in the supplemental information memo dated June 7, 2007, in addition to modifying Condition No. 19 of Exhibit "B" to restrict the delivery hours for vehicle delivery and off-loading to 9:00 a.m. to 5:00 p.m., Monday through Saturday. Moved by Vice Chair James Fisler, seconded by Commissioner Eleanor Egan.**

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Eleanor Egan, and Commissioner James Righeimer

Noes: None.

Absent: None



# **CITY OF COSTA MESA**

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

---

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,**

**PLEASE CONTACT THE CITY CLERK'S OFFICE AT**

**(714) 754-5121**